



Economic and Social Council

Distr.: General
9 April 2002

Original: English

Committee for Programme and Coordination

Forty-second session

10 June-5 July 2002

Item 4 (c) of the provisional agenda*

Programme questions: evaluation

In-depth evaluation of legal affairs**

Note by the Secretary-General

In conformity with General Assembly resolutions 48/218 B of 29 July 1994 and 54/244 of 23 December 1999, the Secretary-General has the honour to transmit herewith the report of the Office of Internal Oversight Services on the in-depth evaluation of legal affairs. The report has been reviewed by the relevant departments and offices. The Secretary-General takes note of its findings and concurs with its recommendations.

* E/AC.51/2002/1.

** The submission of the present report was delayed in order to review comments received from users of services of the Office of Legal Affairs, both within and outside the Secretariat.

Report of the Office of Internal Oversight Services on the in-depth evaluation of legal affairs

Summary

The present report reviews the work of the programme, Legal affairs, its main achievements during the past decade, with a focus on the last medium-term plan period, 1998-2001, and current programme implementation issues. The main objectives of the programme implemented by the Office of Legal Affairs (OLA) are to provide a unified central legal service for the Secretariat and organs of the United Nations and to strengthen respect within the United Nations for the rule of law in international relations. The main findings of the in-depth evaluation are presented in section II, Central legal services, and in section III, Substantive Secretariat services and treaty matters. OLA activities in the domain of ocean affairs and the law of the sea will be the subject of a separate report submitted to the Committee for Programme and Coordination in 2003, at its forty-third session.

OLA plays a major role in upholding the privileges and immunities of the Organization and providing competent secretariat support to United Nations bodies and has been generally effective in ensuring respect within the United Nations for the rule of law. However, this function has sometimes been difficult to reconcile with the search for solutions to facilitate implementation of substantive programmes, in particular when policy is developing faster than the legal framework.

During the 1990s, several circumstances, including the multiplication of peacekeeping operations and the reforms of procurement and human resources management, significantly increased the workload of OLA. To help maintain the quality and timeliness of legal services, corrective measures were put in place since 1996. Measures were also taken to address the long-standing problem of delays in the publication of legal material. Improvements can be observed in the timeliness of services and availability of information. Additional measures are needed to consolidate these improvements and maintain the quality of the central legal services provided by OLA.

In section IV of the present report, recommendations are made to enhance OLA delivery of legal assistance by taking steps such as clarifying the legal implications of new policies, using fast-track procedures and outpostting Office staff as needed. It is recommended that legal information be made available more widely to personnel involved in the management of programmes and that additional direct support be provided to peacekeeping missions. The prevention of legal difficulties, in particular in the area of procurement, requires that present efforts be sustained. A number of measures are recommended such as more systematic identification, at the planning stage, of higher-risk procurement actions for early assistance from OLA and making alternative dispute resolution mechanisms mandatory. Maintaining the progress achieved in the reduction of the backlog of the publications will require sustained attention. In the field of international trade law, OLA should strengthen its coordinating role with respect to other active organizations, increase its law reform efforts to ensure wider participation in international trade conventions and model laws and take the necessary steps to face an ever-increasing programme of work in response to the growing importance of, and increased demand for, international trade law.

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1–3	4
II. Central legal services	4–43	4
A. Overall direction, management and coordination of legal advice and services provided to the United Nations as a whole	5–15	4
1. Interpretation and application of the Charter of the United Nations and other instruments	6–7	4
2. Advice on constitutional, procedural and credential matters	8	5
3. War crimes and crimes against humanity	9–11	5
4. Relations with host Governments	12–13	6
5. Coordination of legal advice and services	14–15	6
B. General legal services provided to United Nations organs and programmes	16–43	7
1. Substantial contracts and procurement matters	17–26	7
2. Technical support for peacekeeping operations	27–30	10
3. Administration and management of the Organization	31–34	11
4. Institutional matters and enhancing central legal services	35–43	11
III. Secretariat services and treaty matters	44–77	14
A. Progressive development and codification of international law	45–55	14
1. Secretariat support	46–50	14
2. Dissemination and wider appreciation of international law	51–55	15
B. Progressive harmonization and unification of the law of international trade	56–66	16
1. Secretariat support	59	17
2. Coordination with other organizations	60	17
3. Promotion of uniform application and interpretation of UNCITRAL texts	61–62	17
4. Technical assistance with trade law reform	63–65	18
5. Emerging issues on expansion of membership and working groups	66	18
C. Custody, registration and publication of treaties	67–77	18
1. Technical competence in discharging registry and depository functions	68	19
2. Timeliness of publications	69–75	19
3. Provision of legal advice and appreciation of treaty law	76–77	20
IV. Conclusions and recommendations	78–82	21

I. Introduction

1. At its fortieth session, the Committee for Programme and Coordination recommended that an in-depth evaluation of legal affairs be prepared for its consideration in 2002.

2. The in-depth evaluation reviewed five of the six subprogrammes that constitute the legal affairs programme, implemented by the Office of Legal Affairs (OLA). Section II of the present report provides the evaluation findings related to subprogrammes 1 and 2, entitled, respectively: Overall direction, management and coordination of legal advice and services provided to the United Nations as a whole; and General legal services provided to United Nations organs and programmes. Section III of the report provides the findings related to subprogrammes 3, 5 and 6, entitled, respectively: Progressive development and codification of international law; Progressive harmonization and unification of the law of international trade; and Custody, registration and publication of treaties. The in-depth evaluation of subprogramme 4, Law of the sea and ocean affairs, will be prepared for consideration by the Committee in 2003, as requested (A/56/16, para. 407).

3. In the conduct of the in-depth evaluation, the Office of Internal Oversight Services (OIOS) utilized the following categories of information: (a) United Nations documents; (b) information from OLA internal administrative and working documents, including assessments and self-evaluations; (c) internal audit reports and reports of the Board of Auditors and the Joint Inspection Unit; (d) consultations with a number of government representatives, in New York and Vienna, as well as with members of the International Law Commission, OLA staff, staff of other Secretariat departments and offices, organizations of the United Nations system and relevant intergovernmental and non-governmental organizations; (e) evaluation surveys of the United Nations depository libraries and of former participants in the Fellowship Programme in International Law and the Geneva Law Seminar; (f) content analysis of professional law journals and governmental and commercial web-base data collections.

II. Central legal services

4. One of the main objectives of the Legal affairs programme is to provide a unified central legal service

for the Secretariat and the organs of the United Nations. Until 1979, this service was assumed by the General Legal Division (GLD). In 1980, OLA was reorganized and a number of functions related to the privileges and immunities of the United Nations, the rules and procedures of United Nations organs and legal aspects of political and peacekeeping operations were transferred from GLD to the Office of the Legal Counsel (OLC). The expertise of OLC and GLD is, in several domains, complementary. For example, GLD retains responsibility for legal issues relating to operational aspects of peacekeeping operations.

A. Overall direction, management and coordination of legal advice and services provided to the United Nations as a whole

5. Subprogramme 1, Overall direction, management and coordination of legal advice and services provided to the United Nations as a whole, is developed around the main functions mentioned in paragraph 4 above and is implemented by OLC. During the medium-term plan period 1998-2001, it was expected that OLC would “enhance the effectiveness of the principal and subsidiary organs of the United Nations” and missions “by ensuring that their work is carried out in accordance with the Charter” and other relevant instruments and decisions (A/53/6/Rev.1, para. 4.11). The main activities of OLC are reviewed in the present report according to the medium-term plan priorities for the period. Issues related to the preparation of the *Repertory of Practice of United Nations Organs* are reviewed below (see para. 54).

1. Interpretation and application of the Charter of the United Nations and other instruments

6. Advice is provided by OLC at the request of the organs or their presiding officers on issues of interpretation and application of the Charter, the resolutions and regulations of the United Nations and other legal instruments. Responses are needed to facilitate the ongoing work of the organs. The advice requested from OLC is frequently expected in a matter of days, “as soon as possible” or “within the current session” of the organ. In the sample of cases reviewed by OIOS, the advice was provided in the time frame expected. It is recalled that, in principle, advisory opinions of the International Court of Justice can also

be requested by the authorized organs, “from time to time”, to review important points of law within the jurisdiction of the Court that arise in their activities, “and involve questions of principles” (see General Assembly resolution 171 (II) A).

7. Support to the maintenance of peace and security: One specific objective for the plan period was to sustain the evolution of legal arrangements related to international peace and security. In this domain, the main instruments of relevance to OLC are the status-of-forces agreements and status-of-mission agreements. As requested in 1989 by the General Assembly, OLC prepared a draft model status-of-forces agreement, in the preparation of which it benefited from the experience gained at previous missions. OLC revised the model status-of-forces agreement several times to take into account major changes in the way missions are deployed and new concerns of the international community. For example, to accommodate the Organization’s shift to reliance on commercial providers since the early 1990s, new provisions were introduced in the model agreement so that host countries provide vendors with the facilities required for the proper performance of services. In the mid-1990s, it also became necessary to clarify the principles and rules of international humanitarian law applicable to United Nations forces. In collaboration with the International Committee of the Red Cross (ICRC), OLC elaborated rules on the subject, issued in 1999 as a Secretary-General’s bulletin. The revised model status-of-forces agreement recalls these principles in reference to the international instruments that apply. Officers involved in the establishment of peacekeeping missions told OIOS that they found the contribution of OLA very helpful. However, in the light of the experience in dangerous missions, the status-of-forces agreement could be made more explicit in its elaboration of procedures for the prosecution of persons responsible for injury or death of peacekeepers. This would be in line with General Assembly resolutions on the security of mission personnel. *OLA began inserting related provisions in the agreements.*

2. Advice on constitutional, procedural and credential matters

8. OLC prepares the draft rules of procedures and advises United Nations organs and conferences on the conduct of business, and its advice is frequently requested on matters of membership, representation

and elections of the organs. In addition, the Office provides secretariat services to the Credentials Committee and is responsible for liaison with the International Court of Justice as well as discharging the legal responsibilities of the Secretary-General under the Statute of the Court. Requests for advice regarding these matters are frequent and since they can draw on well-established principles and past practice, OLC responses tend to be brief and authoritative. Procedural advice and factual information on legal matters is provided to a wide range of requestors, in writing and orally, by e-mail and during meetings and consultations. Regarding the legal assistance needed to prepare and conduct conferences, officers in substantive departments stated to OIOS that OLC staff gave advice in a timely fashion. Substantive departments appreciate the high degree of consistency and reliability of the decisions and advice provided by OLC. When new issues arise in the preparation of meetings and conferences, OLC staff participate, as needed, in informal consultations with the Member States involved.

3. War crimes and crimes against humanity

9. **Operations of the international tribunals:** The International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda were created in 1993 and 1994, respectively, by statutes adopted by the Security Council. OLC provided substantive support for the drafting of the statutes and for the development of the rules of procedures and evidence of the international tribunals. While the prosecutorial and judicial functions of the tribunals are independent of the Secretary-General, the United Nations administrative regulations and rules apply to them. In 1997, OIOS reported administrative, leadership and operational problems at the International Criminal Tribunal for Rwanda and recalled the general responsibility of the Department of Management and OLA to make practical arrangements for the effective functioning of the Tribunal. A year later, OIOS noted improvements and, in particular, the steps taken by OLA to assist the Tribunal. OLC routinely provides legal advice to the tribunals on various aspects of their operations, including advice on their agreements with Member States such as headquarters agreements, agreements for enforcement of sentences and agreements for protection of witnesses and personnel. It also provides substantive support to the Security Council when requests for amendments of the statutes of the tribunals are submitted to the Council. In

addition, OLC provides advice to the Department of Peacekeeping Operations and other Secretariat entities on requests and subpoenas for documents, records, information and witnesses to testify before the international tribunals. OLC has established principles and mechanisms that make access to required information less time-consuming. These procedures currently meet the needs of the prosecutors and defence counsel.

10. It is considered that the establishment of the international tribunals cannot be seen in isolation from the work on the establishment of an international criminal court, which “would obviate the need for setting up ad hoc tribunals for particular crimes, thereby ensuring stability and consistency in international criminal jurisdiction” (A/50/22, para. 12).

11. **Other initiatives:** In 2000, at the request of the Security Council, the Secretariat initiated negotiations to conclude an agreement with the Government of Sierra Leone for the establishment of an independent special court with a purpose comparable to those of the international tribunals for the former Yugoslavia and Rwanda. OLC prepared a draft agreement and a draft statute for the court. The special court for Sierra Leone is to take the form of a mixed tribunal, with international and national judges, constituted under an agreement between the United Nations and the Government of Sierra Leone, signed on 16 January 2002. This status created difficulties to provide a stable funding for the tribunal, as other Member States are not parties to the agreement. Although the Secretariat is directly responsible, with the national Government, for an effective implementation of the agreement, no additional resources were allocated to OLA for this task. OLC played also a central role in the discussions between the United Nations and the Government of Cambodia on the establishment of a special court to prosecute leaders of the Khmer Rouge.

4. Relations with host Governments

12. The Office of the Legal Counsel provides legal assistance on matters of privileges and immunities of the Organization and relations with Member States and other legal entities. An important aspect of this assistance is the preparation of agreements and other legal instruments regulating these relations, including basic assistance and cooperation agreements used by the funds and programmes. Agreements routinely raise issues within the competence of the General Legal Division (GLD) of OLA and are assigned to the

Division for review. The funds and programmes interviewed by OIOS are generally satisfied with the assistance provided by OLC. As for the Secretariat, officers in several departments stated to OIOS that, although in most instances OLC reviews draft host country agreements submitted for comments in a week or two, there are cases when comments are transmitted after a month or more. As the departments sometimes operate on a tight schedule, comments may reach them after they were needed. These officers attempt to draft legally sound agreements but there is no “reference collection” of previous agreements that could be used as models. It is also noted that the administrative instruction that provides guidance on drafting such documents has not been revised since 1987.

13. **Peacekeeping operations and good offices missions:** Status-of-forces and status-of-mission agreements are designed to facilitate the deployment of mission personnel and equipment. OLC supports the negotiations for the conclusion of a status-of-forces or a status-of-mission agreement with a host country as soon as a Security Council resolution to establish a mission has been adopted. OLC has become highly specialized in these matters and its support is appreciated by political and peacekeeping officers of the Secretariat. The concept of a status-of-forces agreement does not apply in a number of situations and, where it applies, not all such agreements are concluded promptly. To promote the early conclusion of status-of-forces agreements, the General Assembly, in its resolution 52/12 B, recommended that the Security Council, in establishing peacekeeping operations, “prescribe a time frame” for their conclusion, and that “pending the conclusion of such an agreement”, the model status-of-forces agreement would provisionally apply unless otherwise agreed. OLC staff believe that it is desirable to conclude status-of-forces agreements early, provided that negotiations clarify all the commitments required from the parties concerned. It is also their experience that, with the central support and adequate legal support of OLC to missions, recourse to the model agreement and relevant United Nations regulations can minimize problems that arise in the absence of such an agreement.

5. Coordination of legal advice and services

14. One of the OLC core functions is to assist the Legal Counsel “in the coordination of legal advice and services to the United Nations as a whole”

(ST/SGB/1997/8, para. 4.2 (a)). Coordination within OLA is required to pool the expertise of different units. For example, OLC and GLD regularly collaborate in order to ensure respect for the immunity from legal process of the Organization. A number of topics of interest to the work of OLC are discussed below (see paras. 25, 28-30, 35 and 41-43). OLC is coordinating the design and implementation of the OLA information management system, which is intended to facilitate archival of working documents and access by OLA staff and to disseminate information to the different users of its services more easily. Regarding coordination among United Nations organizations, their legal advisers stated to OIOS that it had improved since the mid-1990s, thanks to the efforts of OLA. The main mechanism for coordination is the annual meeting of the legal advisers of the United Nations system. A review of the proceedings of recent meetings shows that discussion of common problems is well-focused and solution-oriented. The legal advisers consulted by OIOS found that OLA arrives to the meetings well-prepared and follows up on decisions taken. OLC and GLD are the main OLA contributors to these meetings. Staff with legal expertise involved in legal work at the United Nations Development Programme (UNDP), the United Nations Office for Project Services (UNOPS) and the United Nations Children's Fund (UNICEF) do not participate in these meetings, although they would have experience to share on many points on the agenda. OLA needs to ensure that the practices and concerns of these funds and programmes are adequately reflected at the meetings. *Measures, in addition to the circulation of meeting documents, are needed.*

15. In terms of measures to reach the Secretariat goal of establishing gender parity among professionals by 2000, OLA has made a notable contribution. In 1994, women made up 34 per cent of the professional cadre. In 2001 the percentage of women at OLA had increased to 48 per cent. In 2001, women candidates filled 12 of the 20 vacant posts in OLA.

B. General legal services provided to United Nations organs and programmes

16. Subprogramme 2, General legal services to United Nations organs and programmes, is implemented by the General Legal Division (GLD). The Division assists the Secretariat and other United Nations organs in day-to-day administration of their

mandates and programmes through the provision of legal services. GLD organized its services around four clusters of subject areas, which correspond to the main activities identified in the medium-term plan: (a) advice on procurement and other commercial matters; (b) advice on legislative and operational aspects of peacekeeping and other missions; (c) opinions on the administrative law of the Organization; (d) advice to separately funded funds and programmes, institutions matters, in connection with their operational activities and preparation of standard instruments. GLD represents the Secretary-General before the United Nations Administrative Tribunal and other judicial and arbitration bodies in commercial and other disputes.

1. Substantial contracts and procurement matters

17. During the 1990s, the multiplication of peacekeeping operations and the higher volume of procurement, the increase in the number of commercial claims and arbitrations confronting the Organization and the reform of procurement increased the demands made on GLD for legal assistance. During the last medium-term plan period, 1998-2001, an expected goal of the Division was to minimize and resolve legal disputes and other legal difficulties arising with regard to the operations of the Organization. This goal also applies to the current period.

Commercial claims and arbitration

18. At the United Nations, many claims by contractors are resolved by the operational units involved or the Procurement Division. OLA is consulted when the legal obligations of the Organization are not clear. Arbitration is the mechanism of last resort, used when disputes arising from contracts are not resolved amicably. Arbitration to resolve disputes between the United Nations and a contractor is a relatively new phenomenon for the United Nations as most of the cases arose only since the mid-1990s. Since 1995, 18 arbitration cases were handled by GLD, most of them relating to peacekeeping operations.

19. Handling commercial claims and arbitrations is a very time-consuming task for GLD staff. Furthermore, to secure the special expertise needed for a given arbitration case, OLA generally retains the services of outside legal counsel. In their 2000 report, the Board of Auditors expressed concern that the selection of arbitrators was not sufficiently transparent. In early

2002, OLA and the Procurement Division were in the process of finalizing arrangements to address the selection of outside counsel. In addition, a few of the complex arbitration cases had raised concerns about the system of payment used by OLA, the amount of fees charged by outside counsel and, sometimes, the failure of accurately predicting the costs of arbitration. The United Nations has generally been billed on an hourly basis and not-to-exceed amount, based on the complexity of the case, which it has found to be the most appropriate system of payment. Regarding the prediction of costs, several law firms consulted by OIOS explained that, with the present system of payment, outside counsel should be able to provide a reliable budget, if the United Nations is able to furnish them with reliable information as to what is involved in the case. *However, this information is not always available to OLA when the services of outside counsel are contracted.*

20. Arbitration is intended to be considerably less formal and time-consuming than litigation, but arbitration tribunals may adopt a too formalistic approach, increasing the costs of proceedings considerably. In the legal profession, where arbitration has become a cumbersome mechanism, more attention is given to negotiated settlement and alternative dispute resolution mechanisms. The use of alternative dispute resolution mechanisms, such as mediation, conciliation and neutral evaluation, is growing rapidly in the private sector. The United Nations has made little use of alternative dispute resolution mechanisms. As recommended by the Board of Auditors in early 2000, OLA has modified the standard contract dispute settlement clause to focus more on amicable settlement. However, in the revised clause, alternative dispute resolution mechanisms remain optional, in the form of conciliation or “such other procedure as may be agreed between the parties” (United Nations General Conditions for Contracts for Purchase of Goods, article 16.1). *To more effectively limit recourse to arbitration, consideration should be given to greater recourse to conciliation or such other procedures before either party submits the matter to arbitration.* To that effect, the Conciliation Rules of the United Nations Commission on International Trade Law (UNCITRAL) can be used with the exclusion of those provisions that make conciliation optional contained in subparagraphs 2, 3 and 4 of article 2 of the Rules. This would be compatible with the Convention on Privileges and Immunities, which only stipulates that the United Nations shall make provisions for the appropriate mode of settlement of disputes.

Drafting of contracts and contract management

21. The number of arbitration cases multiplied around 1995 and 1996, following a period of high procurement volume related to peacekeeping operations. It has since decreased. Officers in the Field Administration and Logistics Division and the Procurement Division told OIOS that among possible factors in this decrease is improved capacity to formulate complex contracts and to manage contract implementation in the field. *Furthermore, in view of the United Nations less than positive experience with prior arbitrations, the Office for Central Support Services stated to OIOS that, whenever possible, it negotiated to settle claims with vendors.* It is also noted that the level of procurement activities, identified as one of the risk factors, dropped significantly between 1996 and 1998 and, after 1998, increased again, with three quarters of all procurement actions related to peacekeeping operations, in 2000. At the 2000 round table on these issues, organized by GLD, participants considered that further improvements are needed to ensure that contracts entered into by the Organization are clear and unambiguous; to ensure consistent practice in contract administration at Headquarters and in the field; and to assess strengths and weaknesses of a claim at the earliest possible time.

22. One of the general responsibilities of GLD is to assist in the drafting of contracts, particularly in relation to complex commercial arrangements. In a number of recent cases, once the need for the procurement of a particular service or item, which required a complex or innovative contract, had been identified, the requisitioning department, the Procurement Division and GLD formed a team to address early in the process the major legal issues likely to arise. It is the experience of staff involved in these teams that the Division’s early involvement in the design of complex or new request for proposal (RFP) and invitation to bid (ITB) formula is likely to enhance the responsiveness of any proposal or bid and to facilitate the contract negotiations with the successful proposer or bidder. *The Office for Central Support Services agrees with this approach as long as it does not add time to the procurement cycle.*

23. As GLD is not sufficiently staffed to review every major contract, criteria to identify higher-risk contracts have been examined periodically. Currently, the *Procurement Manual* stipulates that an OLA review of contracts in excess of \$200,000 is not needed for contracts essentially identical to other contracts

previously reviewed by the Office. There are no criteria that identify the need for early OLA involvement. The review of past arbitration cases and recent procurement actions show that (a) new contracts, (b) contracts with high monetary value, (c) and contracts for peacekeeping operations, in particular, still require better coordination between the requisitioning units, the Procurement Division and OLA. In 2000, out of the 584 contracts in excess of \$200,000 submitted to the Headquarters Committee on Contracts, only 134 contracts were new, valued above \$1 million and for peacekeeping operations. Additional risks are attached to contracts negotiated following a request for proposal (RFP). During the second half of 2001, there were only eight RFP-based contracts above \$1 million. Since, in a typical year, GLD handles many dozens of major contracts and hundreds of other procurement matters, the criteria reviewed above would narrow down the list of higher-risk contracts, for which the early involvement of the Division is desirable, to a manageable number. Prioritization using a fixed formula will not fit every situation. However, it would help identify those procurement situations that are new or otherwise complex.

Evaluation of contractors

24. The *Procurement Manual* provides for criteria and a procedure for suspension or removal from the supplier roster. Criteria are performance-related and include unethical conduct as well as other types of conduct that would affect the acceptability of the supplier as a United Nations contractor. Notice of suspension or removal is reviewed by OLA. Currently, the Procurement Division encourages all vendors to the United Nations to issue a clear statement of support for the Global Compact and its nine principles. Such commitment is not attached to the General Conditions of Contracts in order to reduce the risk, for example, that the services of a contractor resorting to forced child labour would be contracted by the United Nations. In this instance, it is a commitment that UNICEF requires in its contracts. In 2000, in paragraph 22 of resolution 55/247 on procurement reform, the General Assembly reiterated the need to improve procurement practices “by simplifying the registration process for vendors who have already registered with another organization of the United Nations system”. Implementation of that resolution would require that United Nations organizations harmonize the criteria of their supplier performance evaluation and share information on which suppliers are barred from doing

business with them. As OLA participates in the maintenance of the United Nations suppliers’ roster, legal implications of new measures contemplated to simplify the registration process for vendors need to be examined by the Office. *The Office for Central Support Services believes that the immediate challenge is to find ways to centralize the registration process. In this regard, a United Nations centralized procurement portal was recently established.*

Joint review of problems and lessons learned

25. Oversight bodies have recommended that the lessons learned from all aspects of arbitration and settlement cases should be disseminated to key participants of the procurement process. GLD has responded in several ways. First, several revisions of the United Nations General Conditions of Contracts have been undertaken to apply lessons learned and model contracts have been revised as necessary. While this is a useful step, those users contacted by OIOS noted that as model texts cannot reflect the needs of a variety of situations, procurement, administrative and legal officers often put together an informal collection of the most recent contracts for future reference. These informal “reference libraries” are not subject to any form of inventory and coordinated review. A joint review by GLD and the Procurement Division would therefore be useful to ensure consistency of practice. Several officers interviewed indicated that model documents and other reference material should be updated regularly with instructive practices sought from end-users. These updates should be systematically disseminated using the integrated information system currently being developed by OLA (see para. 14 above) and through links to other systems. In addition, GLD needs to explore, in a forward-looking manner, the legal issues that new approaches, such as e-procurement, will present and propose solutions that will facilitate their adoption. For example, OLA needs to review the laws that apply to electronic signatures to address concerns for authenticity, confidentiality and control over decision-making. *It is recalled that UNCITRAL adopted a model law on electronic commerce in 1996.*

26. Another measure to disseminate lessons learned has been the round-table discussions organized by GLD since 1998. Two of these have been on arbitration and a third on several legal issues of interest to lawyers and non-lawyers working in the Organization. However, participation in these events was very limited and no

summary of the issues discussed was distributed to a wider audience. The OLA web page has not been used to disseminate information in areas such as the legal implications of routine administrative actions or practical tips to help determine when OLA review and assistance are needed. Other United Nations organizations, such as the Food and Agriculture Organization of the United Nations (FAO) and departments in other areas of the Secretariat, including the Procurement Division, have used their web sites in that manner. GLD agreed that more should be done in this respect. The Division will convene a joint meeting of officers from OLA, the Procurement Division and other services in early 2002 to discuss new developments in procurement and contracting. *Also, additional round-table discussions could be organized on such topics as amicable settlements and other alternative measures to resolve disputes, their impact and the nature of OLA's involvement.*

2. Technical support for peacekeeping operations

27. Legal assistance provided by GLD to peacekeeping operations covers, inter alia, operational issues arising from status-of-forces agreements and from contributions by States, issues relating to institutional structures of operations and their operational activities. Large programmes, such as the "Oil for Food Programme" in Iraq, have required substantial involvement of lawyers from the Division. Its work on commercial matters is largely connected to peacekeeping operations (see paras. 17-26 above).

28. **Legal support in the field to missions:** During the 1990s, functions added to military operations required new types of management expertise and support, including legal support. GLD direct support in the field to peacekeeping missions has been limited, and generally consists of one legal officer for the needs of a single mission. To provide the legal assistance required in the missions, it has been difficult to recruit additional personnel with sufficient familiarity with the United Nations regulations and rules. The mission legal officers, even at junior level, frequently handle all legal matters, such as contractual issues, GLD issues, and privileges and immunities questions, OLC issues. Although these officers are generally recruited after review by OLA, they are accountable to the Head of the mission not to OLA. On a few occasions, OLA has been able to provide brief training to newly recruited legal officers. Once, in 1997, a two-month

comprehensive training programme was jointly organized for them by the Field and Logistics Division, the Procurement Division and OLA. Former participants stated to OIOS that the programme, which covered OLC and GLD issues, had been very helpful. The quality of legal work in the mission where the legal officers are deployed is not formally monitored by OLA. Technical evaluation of performance by OLA would help ensure that legal advice provided in the missions is effective for the protection of the interests of the Organization. The views of OLA on the performance of legal advisers should be formally sought by heads of the missions. These expanded responsibilities of OLA are in keeping with the general function of the Legal Counsel. It is noted that the Secretary-General recommended that "legal officers in the field should be encouraged to maintain informal communications with their counterpart in OLA" and that "legal officers from OLA dealing with peacekeeping operations visit the field on a regular basis to gain a more in-depth understanding of aspects of peacekeeping that affect their work" (A/55/977, para. 264).

29. Rapid deployment of personnel to establish missions remains a problem, in particular for peacekeeping missions. As early as 1993, the Secretary-General had made a number of proposals for effective staffing of missions and early deployment that included a capacity to face sudden and substantial demands in civilian administrative and technical staff within the Organization. Decisions made in the field during the mission start-up phase have long-lasting consequences. In 1999, OIOS recommended that peacekeeping missions, especially during start-up, be staffed with qualified and experienced personnel in key procurement and contract administration positions, as well as with qualified legal advisers. An OIOS survey of five missions at the end of 2001 revealed that in only one mission were legal officers deployed when the mission started up; in the other four, the legal officers were deployed three to four months after. At one mission, a legal officer who left was not replaced.

30. In 2001, the question of improved personnel surge capacity within the Organization for staffing of missions during the start-up phase was examined by a Secretariat task force. The task force took into account the "interrelationships of all relevant elements within the Secretariat that play a role in peacekeeping operations", as requested by the Special Committee on Peacekeeping Operations (A/C.4/55/6). OLA did not

participate in the work of the task force. The subsequent report on implementation of the Special Committee recommendations underlined the need to strengthen the capacities, inter alia, of the Department of Management and OLA so that they can more effectively support United Nations peacekeeping operations. In particular, the report noted that “the upsurge and increased complexity of peacekeeping operations has resulted in an increased workload for OLA” (A/55/977, para. 260). However, in August 2001, in the related statement of programme budget implications providing the detail of additional resources required by departments and offices, no additional resources were requested for OLA. At the end of 2001, the Department of Peacekeeping Operations engaged in a process to have in place up to 3 rapid-deployment standby teams and 3 missions start-up teams and to identify staff for longer-term assignment available on 30 days’ notice. In early 2002, no information was available on the involvement of OLA in this planning process. *One OLA officer participated in the Afghanistan start-up mission group.*

3. Administration and management of the Organization

31. For the current medium-term plan period, the expected accomplishments for GLD include compliance with regulations, rules and administrative issuances. The implementation of systems that ensure staff compliance with regulations and rules is the responsibility of the Office of Human Resources Management. To minimize difficulties in this area, questions of accountability and responsibility of managers and other staff and the use of clear language in administrative issuances are important factors. Since the mid-1990s, GLD played an important role in the establishment of a more efficient system of administrative issuances. *The reform of the system was initiated by the Legal Counsel in 1995.* The Division also reviews all administrative rules before issuance, consistent with section 6.2 of ST/SGB/1997/1. Non-compliance with rules and regulations is the underlying cause for the review of many cases by the internal system of justice. In spite of improvements in human resources management policies and systems, the defence of the Secretary-General before the Administrative Tribunal still represents an important proportion of the GLD workload.

32. **Administration of justice:** The administration of justice at the United Nations features some informal

procedures and two stages of formal recourse. The first stage of formal recourse takes place before internal joint bodies whose role is advisory only; the second stage before an Administrative Tribunal whose decisions are binding. The United Nations Administrative Tribunal is an independent organ supported by a small secretariat. An OIOS inspection of the Tribunal’s secretariat will be carried out in 2002.

33. GLD represents the Secretary-General before the Administrative Tribunal and provides advice requested by the administration in the earlier stages of the proceedings. The Tribunal’s caseload increased significantly after 1990. As at the end of 2001: the workload related to the Tribunal at GLD required 38 professional work months; 57 cases were under preparation; and 16 lawyers in the Division were working on those cases. Cases are handled with greater urgency nowadays because of the Tribunal’s criticism of the administration for always asking for extensions when submitting briefs. However, the backlog of cases pending increased noticeably in the past few years. GLD has devoted more resources to the reduction of the backlog to a reasonable level in the coming years.

34. In a recent study, the Joint Inspection Unit (JIU) commented that, not unlike similar domestic systems, the system for the administration of justice at the United Nations is slow, costly and cumbersome. The question “has been the subject of numerous attempts at reform, which have, up to now, failed to bring about the desired results” (JIU/REP/2000/1, para. 1). The Secretary-General considers it “fundamental that, in the administration of justice process, control procedures change more in favour of informal mediation, early resolution of issues and informed decision-making by potential claimants” (A/55/253, annex V, para. 7). In 2000, it was proposed to replace the current informal mediation processes by an ombudsman mechanism, as has been done at UNICEF and UNDP. The General Assembly welcomed the proposal. The question should be kept under review to determine whether the implementation of new measures, in particular the ombudsman mechanism, have been effective in addressing staff complaints and have reduced the demands placed on GLD.

4. Institutional matters and enhancing central legal services

35. GLD services related to institutional matters deal, inter alia, with the establishment of appropriate

regulations, rules and procedures for operational activities of the Organization, including the separately administered funds and programmes; the negotiation and drafting of agreements related to cooperation with implementing partners, the establishment of field offices and the services rendered by the funds and programmes. From the OLA perspective, these services are provided not simply for the convenience of the user entities, but more broadly to ensure a uniform and consistent application of the law within the Organization, thereby protecting its interest and minimizing its financial liability.

Improving the delivery of common services

36. The last decade has seen a marked increase in the volume of work handled by GLD: in 1990 and 1991, the conduct of general legal work by GLD entailed the preparation of 2,994 briefs, advice and opinions; during the biennium 1996-1997, the Division logged a threefold increase and handled over 9,280 written requests for legal assistance and advice. This prompted a reappraisal of the Division's capacity. To help the Division maintain quality and timely service, its professional staff was increased from 15 posts in 1991 to 20 posts in 1996. In spite of this increase, in 1997, the Board of Auditors noted that the situation remained difficult. At the time, high vacancy rates of 20 per cent and high turnover rates of GLD professional staff further complicated the situation. Turnover rates have remained higher than they are in the rest of the Secretariat.

37. Since mid-1995, GLD has implemented a number of reforms, including reorganization by clusters of subject areas and the establishment of procedures for setting priorities and tracking progress of work. GLD established more regular consultations with clients. The reorganization by clusters was intended, in particular, to develop a cadre of experienced lawyers for each subject area while enabling clients to more easily identify and communicate with the lawyers working on particular projects. The work of GLD and OLC was included among the services reviewed by the 1997 Task Force on Common Services. A goal of the Task Force was to assure that common services are "cost-effective, high quality and timely, provided on a competitive basis and result in full client satisfaction" (A/51/950). Among the questions examined were outposting OLA lawyers to user entities, access to outside specialized expertise in areas that OLA does not normally deal with and timeliness of OLA advice.

Assessment of results

38. The outposting of OLA lawyers has the advantage of bringing OLA's expertise closer to the user, a requirement for operations where advice is needed at any time of the workday. In addition, outposting enables legal officers to gain a more in-depth understanding of the users' operations and specific mandates. Due to staff constraints, GLD was able to practise outposting to user entities on a limited basis only. The hiring of outside specialized expertise was done — for example in the areas of insurance and real estate law, and proposed for banking law — only when the programmes assisted were able to cover the cost of the specialized legal work provided. *OLA has not been provided with a budget allocation to respond to the needs for specialized expertise by hiring outside counsel.*

39. At the end of 2001, OIOS consulted users of GLD services, including the most intensive users, in 13 United Nations departments, offices and programmes. Regarding timeliness of service, half of the users indicated that they were satisfied. Depending on the nature of their request, they generally received GLD assistance within a week to a month. One user stated that, in his area of work, the 1996 reorganization of GLD in clusters had significantly improved turnaround time from two months to less than one month. Except for a few cases when GLD response took much longer, most of the dissatisfied users had experience comparable to the satisfied users. Most frequently, GLD turnaround time was a week to a month. It was observed, however, that these dissatisfied users were involved in operations, frequently of a commercial nature, for which they maintained that a response time longer than a day would be inadequate. They acknowledged that an urgent request, forwarded personally by the head of service, could be given high priority by GLD, but that not all their requests could be transmitted in that manner.

40. Users had different experiences with GLD working practices. A few of them indicated to OIOS that they were able to call the lawyers they knew at GLD and obtain the information they needed without sending a formal request for advice. However, the majority of users reported that it was difficult to obtain simple information by telephone or by e-mail. Many of them stated that, once their formal request for advice had reached GLD, the assignment of the task to a lawyer and the internal OLA clearance of the lawyer's comments were highly centralized, and could be

delayed for weeks when senior officers were away from Headquarters. GLD needs to strengthen its cluster system, intended to facilitate communications with users, by delegating sufficient authority to provide advice, even informally, to a number of its experienced lawyers below the level of Director or heads of clusters. These lawyers would represent the Division as “relationship” lawyers assigned to the different users caseload and will refer cases outside their expertise to other lawyers, without delay. To further streamline the consultation process, GLD needs to assess if the current clusters of subject matters should be reorganized to more closely match different domains of legal expertise. *To effectively implement this streamlined management of its caseload, GLD may need to adapt its processes and internal information flow and examine, in particular, good practices adopted in other public sector legal offices.*

Ensuring compliance with the legal framework of the Organization

41. Given the breadth and diversity of mandates and interests of the different institutions serviced, this aspect of GLD’s work requires a difficult balance between two functions: ensuring compliance with the legal framework of the Organization; and providing assistance to facilitate operations. This is the case, in particular, when policy is developing faster than the legal framework. OLA has been criticized for responding too slowly or with a lack of creativity to the demands of the separate funds and programmes for legal advice and to the development of new modalities for dealing with civil society and the private sector. One example of this arises with respect to the use of the name and emblem of the Organization.

42. The use of the name and emblem of the Organization has been the subject of debate since 1993, during the preparations for the fiftieth anniversary of the Organization, when there was increased interaction between the Organization and the private sector. OLA’s position was that it had been the long-standing policy of the Organization to prohibit use of the name and emblem for commercial purposes. OLA was in favour of maintaining a strict policy of prohibition based on General Assembly resolution 92 (I). However, this resolution did not explicitly prohibit the use of the name and emblem but only expressed a concern in relation to commercial purposes. OLA recognized that, in practice, the policy allows for the use of name and

emblem in a wide variety of circumstances and that each situation should be examined in light of the particular situation. It was not until 2000 that, in the Secretary-General’s guidelines on cooperation between the United Nations and the business community, OLA, in collaboration with other organizations, set out general principles clarifying the use of the name and emblem, taking into account the evolving new relationship with the private sector. The clear enunciation of this policy has been appreciated by many users in the Secretariat and the funds and programmes: their concern is that it would have been more beneficial to have such guidance delivered by OLA much sooner.

Upholding the unified nature of central legal services

43. In recent years, the separate funds and programmes strengthened their internal legal support, for reasons such as improving liaison between their headquarters and field offices and avoiding delays in obtaining OLA advice. In practice, most of the funds and programmes are seeking to provide their own legal advice and, in the course of 2001, at least one of them has dramatically reduced its requests for OLA assistance. *In August 2000, UNDP established its Office of Legal and Procurement Support, in close consultation with OLA.* Within the Secretariat, since the mid-1990s, in order to respond to the increased demands for legal advice, in addition to the two formally recognized positions at the United Nations Offices at Geneva and Vienna, a number of Legal Liaison and Legal Adviser positions have been created in the Organization. These positions were created without consulting OLA on the need for additional legal assistance, provided either centrally by the Office or by establishing new positions in other offices. OLA delegation of authority to these positions was not sought, as would be the normal practice in other support areas such as finance and procurement. The position of officers providing general legal advice were proposed for the United Nations Centre for Human Settlements (UNCHS) and the Office of the High Commissioner for Human Rights. *On this matter, the High Commissioner for Human Rights consulted the Legal Liaison Office in Geneva.* The position of contract officer with legal liaison function was established at the Procurement Division. *To clarify the purpose of this function, the Office for Central Support Services stated to OIOS that this officer assists in preparing draft texts, which are then passed to OLA for*

review. No written proposals for such positions nor review by the relevant oversight bodies was ever seen by OLA. OLA itself is not sufficiently involved in the review of legal implications of new developments in programme delivery. The present situation raises an issue of the role of OLA as provider of central support services, which includes protecting the interests of the Organization. It should be standard practice that OLA is consulted on the necessity for new positions with legal functions and on the job content of such new positions and that it should monitor periodically the quality of general legal work performed in the departments and offices where such positions exist. Currently, OLA reviews the qualifications of candidates for such positions at the United Nations Offices at Geneva and Vienna and for the recruitment of legal officers at peacekeeping missions. Regarding the technical evaluation of the performance of all positions, the views of OLA are not sought.

III. Secretariat services and treaty matters

44. OLA contributes to the progressive development and codification of international public and trade law by providing substantive secretariat support to United Nations bodies. OLA is discharging the Secretariat's responsibilities under Article 102 of the Charter of the United Nations on the registration and publication of treaties and the Secretary-General's responsibilities as the depositary for multilateral conventions.

A. Progressive development and codification of international law

45. Subprogramme 3, Progressive development and codification of international law, is implemented by the Codification Division. The Division participates in activities for the dissemination and wider appreciation of international law and is responsible for secretariat support to the International Law Commission, the Sixth Committee and its subsidiary organs and diplomatic conferences. These organs drafted and adopted a large number of instruments, which included, in recent years, the Convention on the Safety of United Nations and Associated Personnel, the Convention for the Suppression of Terrorists Bombings and the International Convention for the Suppression of the Financing of Terrorism, as well

as the landmark Statute of the International Criminal Court, adopted by the Rome Conference in 1998.

1. Secretariat support

Servicing meetings

46. The Division services some 300 meetings of United Nations organs per year. The delegates to the Sixth Committee consulted by OIOS at the end of 2001 were very appreciative of the in-session support provided by the Codification Division. New delegates, in particular, find that the orientation received on points of procedure is useful and observe that Secretariat staff remain available for answering queries as needed.

Preparation of documentation and research

47. Almost all the delegates to the Sixth Committee as well as the members of the International Law Commission consulted by OIOS at the end of 2001 found the documentation prepared by the Codification Division useful and were nearly unanimous in their praise of the high professional quality of the work.

48. **Timeliness:** Regarding timeliness, one recurring problem is the late submission of the annual report of the International Law Commission to the Sixth Committee. This is due to the annual calendar of meetings; the Commission's session closes barely five weeks before the Sixth Committee convenes. Another problem with timeliness is the late submission of the Special Rapporteur's reports to the International Law Commission. In 1996, the Commission recommended that the reports "be available sufficiently in advance of the session at which they are to be considered" (A/51/10, para. 149). In 2000 and 2001, the Rapporteur's reports submitted to the Commission were distributed, at the earliest, three weeks before the session.

49. **Comments received from Member States:** An important part of the substantive inputs requested by the organs consists of comments and material provided by Governments. There is concern that too few Member States are making contributions, which undermines the objective of such processes. In an attempt to increase the response rates, the Codification Division transmits the requests for information immediately after the sessions of the various organs and sends reminders. The main reason given for the disappointing results is the lack of resources allotted by most Governments to follow questions of international law. Comparable difficulties with response

rates are experienced in other areas of the Organization. The results of measures taken in some areas — *such as drug control, social development and sustainable development* — to address the problem need to be reviewed.

50. **Research and surveys of international law:** The International Law Commission, in its 1996 annual report, noted that the contribution of the Secretariat to its work is essential. The Commission stated that, although its statute provides simply that the Secretary-General shall, “so far as he is able, make available staff and facilities required by the Commission”, “the Secretariat should be encouraged to make an even greater contribution to the Commission’s work” (International Law Commission 1996 report, para. 234). All but one of the members of the Commission consulted at the end of 2001 by OIOS believed that the Codification Division should conduct more research to assist the Commission. Several of them made specific reference to the 1978 survey on the law of force majeure carried out by the Division at the request of the Commission and wished to see similar work done in future. This subject, generally, was also a concern of the delegates to the Sixth Committee consulted by OIOS. Delegates gave the example of a scientific topic on the agenda of the Sixth Committee at its last session for which a Secretariat background paper on the main issues to consider would have been useful in preparation for the meetings. *However, OLA stated to OIOS that these matters have never been brought to the attention of the Legal Counsel, who frequently meets with members of the Sixth Committee and holds informal consultations with both bodies.*

2. Dissemination and wider appreciation of international law

51. To promote the knowledge of international law, the Codification Division monitors the implementation of the international programme of assistance in the teaching, study, dissemination and wider appreciation of international law, which was established in 1965. The Division is directly involved in the implementation of several elements of the programme: fellowships; legal seminars; and dissemination of information. During the 1990s, the Division coordinated the implementation of the United Nations Decade of International Law, which elicited the interest of many international organizations.

Fellowship programme and law seminars

52. The six-week annual Fellowship Programme in International Law is the result of the collaboration of the Codification Division, UNITAR and The Hague Academy of International Law. At the end of 2001, former participants surveyed by OIOS found the programme beneficial. As mandated, participants are predominantly from developing countries. Nearly half of the former fellows responding to the survey believed that more lecturers should be from developing countries. A number of them felt that, within the treatment of broad topics, more attention should be given to issues of concern in their regions. It is recalled that one of the objectives of the Fellowship Programme is to deepen participants’ knowledge of international law, “particularly those questions of special interest to developing countries” (A/48/580, para. 80). As funds to organize regular regional seminars are insufficient, regional concerns may need to be more fully addressed in the context of the existing programmes.

United Nations publications and other media

53. *United Nations Juridical Yearbook:* The Codification Division is responsible for the preparation of several recurrent publications, such as the *United Nations Juridical Yearbook*, as well as non-recurrent legal publications. At the end of 2001, the OIOS survey of United Nations depository libraries revealed that two of the three most frequently consulted United Nations legal publications are published by the Division: the *Juridical Yearbook* and the *Yearbook of the International Law Commission*. The publication of the *Juridical Yearbook* was interrupted for a number of years during the 1980s. At the end of 2001, good progress had been made to eliminate the backlog of publication, which had reached a 13-year high: the 1998 volume was being processed by the editors.

54. *Repertory of Practice of United Nations Organs:* The production of the *Repertory of Practice of United Nations Organs* began in the 1950s. In 1997, there was a backlog of 18 years in the production of the *Repertory*, and of 27 years for certain Articles of the Charter. Since 1997, a number of steps were taken to expedite the production of the *Repertory*, as requested by the General Assembly, including designation of author units in each of the nine departments and offices concerned. The Codification Division is responsible for coordinating the preparation of the *Repertory*. Even though the new system, *established after an initiative by the Legal Counsel in the Senior*

Management Group, has reduced the backlog, the General Assembly recognized that the current pace is not sufficient. It is expected that most volumes covering the period from 1979 to 1984 will be completed in 2002. The possibility of establishing a central unit for the preparation of the *Repertory*, as exists for the *Repertory of Practice of the Security Council*, was discussed. Presently, author units are frequently hiring consultants and resorting to interns to carry out core tasks of preparation, which creates problems of continuity and quality. The same level of general temporary assistance allocated for this work in past bienniums, \$2 million, can easily support a more permanent arrangement. As an indication of the continued interest in the publication, in spite of its backlog of more than 15 years, the *Repertory* continues to be the recurrent OLA publication with the highest sales. Many government delegations "urged that the necessary steps should be taken in order to ensure the timely publication of both the *Repertory* and the *Repertoire of the Practice of the Security Council* in future and to eliminate the backlog". A trust fund was established to support the preparation of the *Repertoire*. OLA should propose measures that would ensure an elimination of the backlog of the *Repertory* in a time frame comparable to that which was used for the *Treaty Series*.

55. **Electronic and audio-visual dissemination:** The Codification Division has created a number of web sites to disseminate information on the work of the United Nations on international law, including the technical assistance provided. As a tool for disseminating information on international law, the Internet appears useful: 80 per cent of the depository libraries responding to the OIOS survey are accessing international legal materials from the United Nations web sites, mostly libraries in the Economic Commission for Africa (ECA), Economic Commission for Europe (ECE) and Economic Commission for Latin America and the Caribbean (ECLAC) regions. The Codification Division maintains the Audio Visual Library, created in 1997. The Library is funded solely through voluntary contributions from professional and academic institutions. Many of the videotapes offered are in English only.

B. Progressive harmonization and unification of the law of international trade

56. Subprogramme 5, Progressive harmonization and unification of the law of international trade, is

implemented by the International Trade Law Branch. The mandate of the subprogramme derives from General Assembly resolution 2205 (XXI) of 17 December 1966, establishing UNCITRAL, which is serviced by the Branch. The main functions of the Commission are (a) coordinating the work of organizations active in this field; (b) promoting wider participation in existing international conventions and acceptance of existing model and uniform laws; (c) preparing or promoting the adoption of new international conventions and model laws; and (d) promoting ways and means of ensuring a uniform interpretation and application of international conventions and uniform laws. In 1973, the General Assembly endorsed the expansion of UNCITRAL membership to the current level of 36 experts representing their Governments. Observer States, representatives of the United Nations system, intergovernmental organizations, and a number of non-governmental entities representing industry and practice also participate in the technical deliberations of UNCITRAL. Delegates from Observer States may sometimes chair sessions in their personal capacity.

57. Since its inception 34 years ago, UNCITRAL has adopted and promoted a large number of instruments. The most prominent of these are listed in tables 1 and 2 below.

Table 1
Country ratification of trade law conventions

<i>Convention</i>	<i>Number of countries that have ratified the Convention</i>
Convention on the Limitation Period in the International Sale of Goods (1974)	24
Convention on the International Sale of Goods (1980)	61
Convention on the Carriage of Goods by Sea (1978)	28
Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958)	129

58. In spite of calls by the General Assembly for universal adoption, the level of ratification of many of the trade law treaties and conventions has been low. In addition to conventions, UNCITRAL has employed more flexible legal instruments known as model laws to harmonize international trade law. The advantages of model laws is that they can be quicker to draft and provide the State with a greater degree of flexibility in

the adoption process by allowing for the modification of the final text to meet particular domestic conditions and needs. Although, unlike conventions, there is no formal method for tracking the manner in which States adopt or adapt model laws, *UNCITRAL has been able to obtain information on adoption and copies of adopting legislation from member and other States. Other forms of harmonizing texts, such as legislative guides, have also been used.*

Table 2

Country enactment of laws based on UNCITRAL Model Laws

<i>Model laws</i>	<i>Number of countries that have adopted the model laws</i>
Model Law on International Commercial Arbitration (1985)	34
Model Law on Procurement of Goods, Construction and Services (1994)	14
Model Law on Electronic Commerce (1996)	11

1. Secretariat support

59. The International Trade Law Branch is responsible for the substantive servicing to UNCITRAL and its current working groups on privately-financed infrastructure projects, international arbitration and conciliation, transport law, electronic commerce, insolvency law and security interests. This support is provided to approximately 200 meetings a year. Members of the Commission and other participants interviewed by OIOS have uniformly indicated that the Branch contributes meaningfully to the work of UNCITRAL through the preparation of background material and the provision of substantive papers and advice. Reviews of the statements made at the Sixth Committee in 2001 and interviews with members of the Commission, delegates from Member States, non-governmental organizations and other agencies indicate that the quality of the secretariat support is effective, technically competent and timely. Particular mention is made of the Branch's ability to maintain a balanced approach to issues.

2. Coordination with other organizations

60. Interaction with other organizations active in the field of trade law takes place mostly at the annual meetings of the Commission and at UNCITRAL

working groups, as well as through the Branch's participation in meetings of other organizations. As mandated, the Commission's annual report is submitted to UNCTAD for comment. All international organizations consulted agree that there is a need to improve the substance and depth of coordination among agencies associated with trade law, both within and outside the United Nations system. Coordination is becoming increasingly urgent in light of the increased number of organizations becoming involved in the area of international trade law reform and the consequent risk of duplication of efforts and inconsistent results. The Branch is aware of this need and has begun to use new approaches to draw upon the work done in other forums, including requesting written responses from relevant agencies to draft texts that are to be submitted to an UNCITRAL working group. The comments of the agencies are subsequently taken into account in the preparation of texts. These efforts should be supplemented with more systematic approaches that focus on information sharing and joint work-planning.

3. Promotion of uniform application and interpretation of UNCITRAL texts

61. The first tool used by UNCITRAL to disseminate information on trade law was *UNCITRAL: United Nations Commission on International Trade Law Yearbook*, which has been published with regularity since 1968. Over half the respondents to the OIOS depository library survey indicated that this publication is of interest to their readers. *The Law Branch is in the process of making available the text of all Yearbooks on its web site.*

62. In order to facilitate and enhance the uniform application and interpretation of UNCITRAL texts, the Branch has maintained a database of decisions by national courts and arbitral tribunals interpreting texts resulting from the work of UNCITRAL since 1988, entitled *Case Law on UNCITRAL Texts (CLOUT)*. This system draws on information submitted by "national correspondents" nominated by Member States. In the OIOS depository library survey, less than 25 per cent of the respondents were familiar with CLOUT. There is therefore a need to take measures to ensure familiarity with CLOUT, which is considered of primary value to practising lawyers, judges and law students. Furthermore, suggestions have been made in UNCITRAL sessions and by those academics familiar with CLOUT, that an online form of case-law

commentary should be developed on decisions taken by States Courts and Arbitral Tribunals to promote the more consistent interpretations of the Conventions and Model Laws. ITLB is in the initial stages of setting up a group of experts to produce a “digest” of such case law on the Sales Convention. ITLB also prepares an annual *Bibliography of Recent Writings Related to the Work of UNCITRAL* in printed form, and a web version, which consolidates bibliographies from 1993 to the current year.

4. Technical assistance with trade law reform

63. The International Trade Law Branch administers a Voluntary Fund to Grant Travel Assistance to Developing Country Members of UNCITRAL to attend meetings of the working groups: \$4,500 was expended in 1998-1999, and the estimated expenditure for 2000-2001 is \$12,500.

64. The Branch also administers a trust fund for UNCITRAL symposiums for activities to promote international trade law reform: \$179,600 was spent in 1998-1999, and \$220,000 is the estimated expenditure for 2000-2001. The Branch also provides the Commission with an annual note on training and technical assistance, summarizing activities conducted in coordination with this fund. For the period from May 2000 to April 2001, for example, the staff of the Branch undertook six seminars in Havana, Tashkent, Seoul, Beijing, Cairo and Bologna, Italy. These seminars lasted from 2 to 4 days and involved 480 participants overall. In all cases they were hosted by ministries, regional centres and organizations involved in international trade. Participants interviewed by OIOS stated that the sessions were useful. However, the Branch does not systematically follow-up or seek feedback from the participants, an exercise which would help to measure the effectiveness of such training in a concrete manner.

65. In its resolution 51/161 of 16 December 1996, the General Assembly decided to include the trust funds for symposiums and travel in the list of funds and programmes that are dealt with at the United Nations Pledging Conference for Development Activities and appealed to UNDP and other organizations responsible for development assistance, as well as Governments in their bilateral aid programmes, to support the training and technical assistance programme of UNCITRAL. Unfortunately, some of the programmes contacted were not aware of this resolution and ITLB confirmed that there had been no concerted efforts to formulate a strategy for that purpose because Branch staff are already overstretched.

5. Emerging issues on expansion of membership and working groups

66. In recent years, UNCITRAL has been considering the implications of increasing its membership. In December 2001, the General Assembly deferred the membership issue for consideration at a later date. There has also been a review of the working methods of the Commission. From the proposals contained in the Secretariat’s note on working methods, the Commission expressed its preference for increasing the number of working groups by reducing the duration of each working group session from two weeks to one week. *While this will enable the number of working groups to be increased from three to six (within existing conference allocations) and accommodate the demand for work on more topics, it will require increased input from the International Trade Law Branch.* It is anticipated that this will only in part be met by streamlining working methods. Participants and observers of the work of the Commission stated to OIOS that the expansion of the working groups was recognized as an indication of the growing importance of, and increased demand for uniform trade law standards in a globalized economy. The limitation of the duration of the groups was also welcomed as it would facilitate attendance. However, doubts were repeatedly expressed as to whether the International Trade Law Branch would be able to maintain the quality and efficiency of its work. Aside from the addition of one Professional post at the P-4 level in 2001, staff resources have remained at the 1968 levels, that is, of 10 Professional and 7 General Service staff. An analysis and reappraisal of the requirements in terms of staff and other support to the expanded working groups appears timely. Given that the issues tackled are of interest to other organizations, the International Trade Law Branch could also consider more strategic efforts to raise funds from partners within and from outside the United Nations, in line with General Assembly resolution 51/161. The Commission decided to review the practical applications of the new working methods at a future session.

C. Custody, registration and publication of treaties

67. The mandate of subprogramme 6, Custody, registration and publication of treaties, derives from Article 102 of the Charter of the United Nations and other

relevant legal provisions. Since 1946, the Treaty Section has been responsible for the following activities:

(a) Registration functions, which involve establishing a date of registration and issuing a Certificate of Registration. A *Statement of Treaties and International Agreements* is issued on a monthly basis and the registered texts are published in the *United Nations Treaty Series*. A *Cumulative Index* is also published periodically;

(b) Depository functions for multilateral treaties, which involve receiving signatures and other treaty actions, notifying parties, establishing certified true copies and the circulation of treaty information through depository notifications, as well as the annual publication of *Multilateral Treaties Deposited with the Secretary-General* and the periodic publication of the *Summary of Practice of the Secretary-General as Depository of Multilateral Treaties*;

(c) Treaty law advice: such support on the technical aspects of treaty-making and law is provided to Member States and others, as requested.

1. Technical competence in discharging registry and depository functions

68. In terms of the legal analysis and technical requirements of the registration and depository functions, the Secretariat has effectively discharged its duties since 1946. Users in the Permanent Missions, Governments and among United Nations agencies have uniformly indicated that the technical work of the Section is professional and sound. Legal officers in United Nations agencies and Governments indicate that they rely on the information processed and maintained, such as status of signatures and reservations, by the Treaty Section and have found this information to be both up-to-date and accurate.

2. Timeliness of publications

69. The United Nations Treaty Collection contains over 50,000 treaties and international agreements and has custody of 518 multilateral treaties for which the Secretary-General is the depository. All information contained in the printed publications is now available online and is updated. *This is the largest single multilateral treaty collection in the world.* The daily updated status information relating to multilateral treaties deposited with the Secretary-General is also now available online. The *United Nations Treaty Series* is available online up to April 1998.

70. The publication of the *United Nations Treaty Series* began in 1946 and now constitutes over 2,030 printed volumes. The collection contains treaties in more than 142 languages, all with translations into English and French. The Charter mandates that registration and publication should be effected “as soon as possible”, but from the earliest years, the General Assembly expressed concern about delays in the publication process. Five of the nine General Assembly resolutions adopted since 1946 on the legislative mandate of the Treaty Section amended, simplified or modernized the functions of the Treaty Section to enable it to discharge this aspect of its mandate with speed and efficiency. Measures adopted include: maintaining the register in English and French only; limited publication of certain categories of treaties; increased use of new technology; and requests to Member States to provide courtesy translations of treaties in English or French. The staff of the Section was also gradually increased, from 17 posts in 1978 to 31 in 1994.

71. In spite of these measures, by 1995, the publications backlog had become chronic, while the delay in the publication of the *Monthly Statement of Treaties* was 15 months, the *Cumulative Index* was 14 years and the backlog for the *United Nations Treaty Series* was 11 years. New initiatives were launched in 1996 to tackle this problem through the following: a major computerization effort coupled with intensive staff training programmes, elimination of duplicative tasks, improvement of the dissemination of information through the web site, as endorsed by the General Assembly; and the introduction of updated management methods. The work of the Treaty Section was overhauled and redesigned to be more integrated and responsive to users of its services. These initiatives helped alleviate external dependencies to the extent possible: five posts were redeployed from the Copy Preparation and Proof-Reading Section of the Office of Conference and Support Services. The only aspect of the publication process for which the Treaty Section remains dependent on external input is the translations of treaties, which are processed by the Department of General Assembly Affairs and Conference Services and remain a major problem.

72. As a result of the above, by 1998, the publication of the *United Nations Treaty Series* volumes increased threefold: from 80 in 1996-1997 to 246 in 1998-1999; the new database and management reform allowed the monthly statement of treaties recorded in a given

month to be issued in the next month, compared to the delay of some 22 months in 1996 (see A/55/73, annex, sect. 6, subprogramme 6). Currently, there is a three-year backlog in the publication of the *Treaty Series*. Resource requirements have decreased and three posts are being redeployed to other units of OLA.

73. Two aspects of the treaty publication process, however, will require vigilance if the backlog is to be kept in check. The first pertains to the translation of treaties. Efforts have been made to address the translation backlog and a special allocation of \$320,000 was made by the Department of General Assembly Affairs and Conference Services for translations in 2000. A coordinated list of priorities and a reasonable pacing of translation requests should be jointly worked out by the Department of General Assembly Affairs and Conference Services and the Treaty Section and should be periodically updated. *Texts for translations should be submitted by the Treaty Section to the Department of General Assembly Affairs and Conference Services at regular intervals. Translations should also be returned within three to six months by the Department, if the pace of eliminating the backlog is to be maintained.* Without a concerted effort to address this issue, in all likelihood the backlog in the publication of the *United Nations Treaty Series* will again begin to increase exponentially from 2003. The second aspect is the updating of the system database, scheduled for 2002, which could cause instabilities that may affect the activities of the Section.

74. Since its launch in 1995, the United Nations Treaty Collection on the Internet web site has become an up-to-date repository of information on the status of treaties, *which garners some 200,000 hits per week*, and it has significantly expanded access by the general public to international treaties. An average of 400 paper volumes are sold per year (mostly to libraries). The web site has enabled end-users to search the United Nations Treaty Collection in a more time-sensitive and efficient manner. Before the web site was set up, only the staff of the Section could conduct comprehensive searches and the information was then relayed by mail, fax or telephone.

75. Online access appears to have been of value to librarians surveyed in the OIOS survey: more than half of those surveyed through the OIOS depository library survey indicated that they use the web site "frequently". However, the one key improvement repeatedly requested by users is the ability to do full-text searches. The web

site should also be hyperlinked to other Treaty depository web sites, both within and outside the United Nations system. Extending the reach of the United Nations Treaty Collection through commercial providers was considered to be useful by 63 per cent of the librarians who responded to the OIOS survey. A user-fee system was instituted in March 2000 with the launch of an upgrade to the web site. This is in keeping with General Assembly resolution 51/158, which endorsed the exploration of the economical and practical feasibility of recovering the costs of providing such Internet access, subject to Member States, organizations of the United Nations system, other international organizations and non-commercial users, not being charged a user fee.

3. Provision of legal advice and appreciation of treaty law

76. Since 1999, as the backlog reached manageable proportions, the Treaty Section has been able to pay more attention to efforts to promoting information about and appreciation of treaty-making and treaty law. In the context of an action plan on the strategy for the era of application of international law, *elaborated by the Secretariat and approved by the Secretary-General in June 2000*, the Treaty Section and key substantive departments identified 25 core treaties representative of the key United Nations objectives. A publication, entitled *Millennium Summit, Multilateral Treaty Framework: An Invitation to Participation*, was produced and, in September 2000, 84 States participated in a three-day treaty event, at which a total of 274 actions were undertaken. Under normal circumstances such levels of treaty activity would have taken between three to six months. The Treaty Section is now organizing annual treaty events on a smaller scale. *In 2001, similar events were organized in connection with the rights of women and children and on terrorism-related treaties.* A focus publication on treaties relating to the environment in conjunction with a special treaty event in parallel with the World Summit on Sustainable Development is being planned for the fifty-seventh session of the General Assembly.

77. During 2001, the Treaty Section, in conjunction with UNITAR, undertook a two-day training seminar entitled "Deposit of treaty actions with the Secretary-General and registration of treaties". The seminar was based on the newest publication of the Section, the *Treaty Handbook*. Thirty-five representatives from

missions to the United Nations attended the seminar, which was designed to meet the needs of the missions' legal counsellors and advisers and to update their knowledge of procedural questions with regard to the preparation of treaty actions. Evaluations by the participants indicated that this training was meeting a need: 96 per cent reported that they found the training to be very useful in the light of their professional tasks. Participants requested UNITAR to include this seminar in their annual programme. The need to provide training on topics such as the negotiation and drafting of treaties and the implementation of treaty obligations, especially with regard to domestic provisions, was also stressed. Seventy-eight per cent of the participants indicated that it would help the processing of treaty registration in countries if seminars of this type were organized in capitals or at regional levels for staff of ministries dealing with bilateral and multilateral treaties. The 2000 action plan envisages the Secretariat taking steps towards providing such support in a more systematic and widespread manner, in collaboration with organizations of the United Nations system.

IV. Conclusions and recommendations

78. In providing a unified central legal service for the Secretariat and organs of the United Nations, the overall performance of OLA has been competent, and in some instances exemplary. OLA has effectively sustained the evolution of legal arrangements related to peacekeeping, taken necessary measures to assist the international tribunals and supported the developments and the adoption of a number of important instruments in international public and trade law. In well-defined areas of the United Nations legal framework, such as constitutional or procedural matters, the advice provided by OLA was authoritative and solution-oriented.

79. During the 1990s, several circumstances including the multiplication of peacekeeping operations, the higher volume of procurement actions, the reforms of procurement and human resources management, increased cooperation with the private sector and the renewed importance of several topics of international public and trade law, significantly increased the workload of OLA. In the mid-1990s, the perception that the efficiency and timeliness of the general legal assistance provided by OLA were compromised prompted a number of

reviews to improve the delivery of these services. Another difficulty, which drew the attention of OLA and other United Nations bodies, was the fact that delays in publishing legal material over several years, including publications mandated under the Charter of the United Nations, had resulted in a backlog that had become unacceptable.

80. Corrective measures put in place during the period from 1994 to 1997 began to yield results during the medium-term plan for the period 1998-2001. With regard to issues specific to general legal assistance, assistance was provided in a more timely fashion, although the response time is still not adequate for some users engaged in activities with fast turnaround time. Efforts were made to improve the discussion of legal difficulties with users, with the goal of preventing problems from arising, although the dissemination of information on these matters was limited. The review of new United Nations policies to propose legal solutions to facilitate the implementation of programmes was not always as prompt as desirable. Although the incidence of legal difficulties decreased, it is considered that further improvements are needed in the management of programmes and legal support provided to better protect the interests of the Organization.

81. To address the accumulated backlog in the publication of legal materials, measures were taken that have had uneven results, particularly when inputs from other parts of the Secretariat were required. Good progress was made to eliminate the backlog of the *Juridical Yearbook*. The Treaty Section of OLA has been successful in almost eliminating the backlog in the publication of treaties, the issuance of which is required under the Charter. In acting to eliminate the backlog, the measures included innovations in computerization, successful training efforts and the development of new products. One of the measures was to limit the dependence of the Treaty Section on contributions from other offices. The reverse is the case for the preparation of the *Repertory of Practice of United Nations Organs* by units in different departments and offices coordinated by the Codification Division of OLA, where progress in reducing the backlog has been very slow.

82. The following recommendations are based on the findings presented in sections II and III of the present report. References to bodies and processes reflect developments as at early 2002. The main

thrust of these recommendations is: to promote the development of legal frameworks to facilitate the implementation of policies adopted by the Organization; to enhance the delivery of legal assistance; and to maintain a unified approach to legal services. OIOS believes that implementation of a number of recommendations, in particular recommendations 4 (a), 4 (b), 7 and 15, may require additional resources for which OLA should prepare a detailed justification for review through the appropriate programme and budget review processes. The cost of outposting envisaged in recommendation 5 (a) is normally provided for in the budget of requesting entities. Implementation of the following recommendations primarily concerns each of the corresponding OLA units: for recommendations 1-8, the Office of the Legal Counsel and the General Legal Division; for recommendations 9-12, the Codification Division; for recommendations 13-15, the International Trade Law Branch; and for recommendations 16-19, the Treaty Section.

Recommendation 1

Legal implications of new orientations of United Nations programmes

Expanding on present practice, OLA should systematically be involved in the development and review of new programmes, before they are adopted by the United Nations, and of new approaches being considered or used in programme delivery, in order to clarify the legal implications of these new developments or approaches. Based on these reviews, OLA should issue guidelines to facilitate implementation of strategies and programmes while protecting the interests of the Organization. This effort should be coordinated through existing Secretariat coordinating mechanisms (see paras. 7, 12, 25, 41-43 above).

Recommendation 2

Dissemination of information to assist other departments and offices in their administrative and substantive functions

(a) OLA should provide basic information on the legal aspects of the most frequent administrative actions needed to carry out United Nations programmes and on the assistance OLA can offer. This information

should take into account the lessons learned from the legal difficulties faced by the Organization and it should be disseminated through the United Nations Intranet or other channels to ensure easy access by staff involved in the implementation of programmes. OLA should consider disseminating legal information useful to administrative and substantive staff through such channels as orientation and training courses organized by other departments and offices;

(b) To facilitate the drafting and consistency of contracts and agreements, OLA should jointly maintain, with the main users of such documents, a reference collection of actual contracts and agreements drafted in recent years to be used as precedents in the variety of situations that arise. This reference material should be updated regularly with instructive practices sought from end-users (see paras. 12, 25-26 above).

Recommendation 3

Delivery of common services to the United Nations and affiliated funds and programmes

(a) The system of clusters established by the General Legal Division of OLA to facilitate communication with users of services should be supplemented with a list of the Division's lawyers, who will act as contacts for different programmes. This list should be made available on the Intranet and other channels to streamline the processing of new requests for assistance and facilitate informal consultations;

(b) The General Legal Division should adopt processes and standards that would ensure immediate response to the programmes that require a faster response time than is the norm now, or should propose outposting legal officers, as an exceptional arrangement, when it is the most effective option, to such entities as the Headquarters Procurement Division and the headquarters offices of the separate funds and programmes (see paras. 37-40 above).

Recommendation 4
Requirements for support to peacekeeping

(a) OLA should participate in the review of requirements for early deployment of experienced support staff to missions and identify the legal officers, within and outside OLA, who will form part of the Secretariat standby capacity;

(b) OLA should ensure that all peacekeeping and other missions where legal assistance is required are staffed with legal officers familiar with United Nations legal framework, regulations and rules. OLA should review qualifications of individuals proposed as legal officers for peacekeeping mission assignments. Peacekeeping missions should, at least once a year, seek the technical views of OLA on the quality of legal services provided at the missions. OLA legal officers should visit the missions as needed to provide required guidance (see paras. 28-30 above).

Recommendation 5
General legal capacity in other United Nations departments and offices

(a) Departments and offices that require additional general legal assistance should consult OLA for advice on the most effective options to address their needs, the preferred option being the outposting of OLA officers;

(b) The Office of Human Resources Management should submit job descriptions of positions at Headquarters and other offices that contain general legal functions to OLA for review. Where necessary, job descriptions should specify provisions for delegation of authority to provide legal advice on behalf of the Legal Counsel;

(c) Secretariat departments and offices recruiting personnel to positions with general legal functions not under the administrative control of the Legal Counsel should seek the technical views of OLA on the qualifications of the candidates and, periodically, on the quality of legal services provided by such personnel (see para. 43 above).

Recommendation 6
Commercial claims against the Organization: alternative dispute resolution mechanisms

OLA should consult the Procurement Division and the relevant units in the Field Administration and Logistics Division and affiliated funds and programmes as to whether conciliation should be made a mandatory step before a commercial dispute is referred to arbitration. Related amendments that might be required to the standard contract dispute settlement clause of the General Conditions of United Nations Contracts should be in full compliance with the relevant provisions of the Convention on the Privileges and Immunities of the United Nations (see paras. 18-20 above).

Recommendation 7
Early legal assistance in the preparation of complex or innovative commercial contracts

Once a need for the procurement of a particular service or item requiring a complex or innovative contract has been identified, the requisitioning department, the Procurement Division and OLA should consider forming a team so that all major legal issues that are likely to arise can be addressed early on in the process, that is, before the formulation of a Request for Proposal or an Invitation to Bid. OLA and the users of its services should develop a set of criteria to facilitate identification of higher risk procurement situations that may require OLA involvement in the early stage of procurement planning (see paras. 21-23 above).

Recommendation 8
Evaluation of vendors and registration process

Regarding the adoption of common criteria and procedures for the evaluation of vendors, OLA, in collaboration with the legal advisers of the United Nations system, should initiate a review of criteria needed to ensure that registered vendors adhere to the basic values of the United Nations. As a first step, OLA and the legal advisers should ask the different procurement offices to review procurement issues that the adoption of criteria, including a commitment not to use forced child labour,

would raise in their operations as well as the experience of agencies that adopted such criteria (see para. 24 above).

Recommendation 9
Governments comments and information requested by United Nations organs

Considering the low response rate of Governments to requests for comments and information by United Nations organs, OLA should review the results of measures taken in other areas of the United Nations to improve the response rates of Governments. Based on this review, OLA should make proposals to the Sixth Committee to adopt measures that would be appropriate (see para. 49 above).

Recommendation 10
Research support to the International Law Commission and the Sixth Committee

(a) At each annual session, OLA should indicate to the International Law Commission the staff resources available, in terms of Professional work-months, for research support to the special rapporteurs during the next intersessional period, and should request research assignments in areas where its assistance is most needed;

(b) When the work of the Sixth Committee contains new topics or topics rarely covered by United Nations bodies, OLA should offer to prepare background documents on legal aspects of the topics that would facilitate their consideration by delegations in subsequent sessions. The preparation of such documents, when requested by the Committee, would take the form of a survey of existing international instruments, State practices or any other presentation the Committee may deem useful for its work (see para. 50 above).

Recommendation 11
Regional issues and the fellowship programme in international law

OLA should review, with its co-organizers, the course design of the fellowship programme to ensure that more attention is given to issues of concern in different regions, through such

approaches as the organization within the programme of regional workshops (see para. 52 above).

Recommendation 12
Repertory of Practice of United Nations Organs

To eliminate the backlog in the publication of the *Repertory* at a faster pace, OLA should formulate a strategy to eliminate the backlog by 2007. Based on its experience in the elimination of backlog in the publication of treaties, OLA should review the practicality of establishing a central *Repertory* section until the backlog is eliminated and present the strategy to the appropriate review bodies (see para. 54 above).

Recommendation 13
Increased coordination with trade law organizations

To enhance coordination in accordance with its basic mandate and ensure a concerted approach to common issues, the International Trade Law Branch (ITLB) should meet annually with key organizations working on trade law issues to share information and workplans (see para. 60 above).

Recommendation 14
Promotion of wider participation in international trade law conventions and use of model laws

(a) To promote appreciation and use of the United Nations Commission on International Trade Law (UNCITRAL) texts, the International Trade Law Branch should increase the range and breadth of its technical assistance in the field of trade law reform. To achieve this, the Branch should formulate a strategy to work jointly with funding agencies supporting trade-related programmes;

(b) The Branch should also devise a strategy to enhance contributions to its trust funds and it should explore new funding from the private sector (see paras. 63-65 above).

Recommendation 15**UNCITRAL expanded programme of work**

OLA should review the secretariat requirements that an expansion from 3 to 6 UNCITRAL working groups require and present to UNCITRAL, at its upcoming review of the practical applications of the new working methods, different options that would ensure the necessary level of secretariat services (see para. 66 above).

Recommendation 16**Disseminating instructive management practices**

OLA, in conjunction with the Office of Human Resources Management, should document the Treaty Section experience to eliminate the backlog of its publications. This experience, which included the use of modern technology, workload streamlining, improved management practices should be used as an instructive case study in related training modules within the United Nations system (see paras. 71-72 above).

Recommendation 17**Translation needs of the Treaty Section**

(a) As the timely issuance of treaty publications involves translation of approximately 12,000 pages during 2002, and as under Article 102 of the Charter of the United Nations the Secretariat is required to publish international agreements as soon as they are registered by Member States, the Treaty Section and the Department of General Assembly Affairs and Conference Services should jointly prepare and execute translation plans to ensure that the backlog in Treaty publications does not re-emerge;

(b) In those years when the Department of General Assembly Affairs and Conference Services is unable to accommodate the Treaty Section's needs, alternatives should be explored to ensure that the production of publications continue with minimum of interruption or delay (see paras. 71 and 73 above).

Recommendation 18**Enhancing United Nations Treaty Collection web site services**

OLA should undertake a systematic appraisal of the needs of the users of the United Nations Treaty Collection web site. This appraisal should review issues of user fees, relation with commercial legal database providers, text search capacity and hyperlinks with other treaty sites (see paras. 74-75 above).

Recommendation 19**Enhanced dissemination of treaty law assistance**

Building on the experience of the first training session held jointly by OLA and UNITAR in late 2001, the Treaty Section should formulate a briefing/training strategy to disseminate treaty-making and treaty law information at the regional and national levels. It should explore opportunities for wider dissemination through United Nations agencies, which are currently providing technical assistance in sectors such as human rights, good governance and the environment (see paras. 76-77 above).

Recommendation 20**Review by the Sixth Committee**

The present report, including the conclusions and recommendations of the Committee for Programme and Coordination, should be submitted to the Sixth Committee of the General Assembly, at its fifty-seventh session, for review and action.

(Signed) Dileep Nair
Under-Secretary-General
for Internal Oversight Services